



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/007,189 | 11/08/2001 | Steve Somers | 238 P003' | 5701 |
| 7590 | 05/14/2004 | | EXAMINER | |
| Russell E. Hattis 1640 Jasmine Court Highland Park, IL 60035 | | | SMITH, JAMES G | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3723 | |

DATE MAILED: 05/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 05112004

Application Number: 10/007,189
Filing Date: November 08, 2001
Appellant(s): SOMERS, STEVE

Russell E. Hattis
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 16 March 2004.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

Appellant's brief includes a statement that claims 8-13, 15 and 16 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

| | | |
|-----------|----------|---------|
| 1,478,736 | Gadberry | 12-1923 |
| 1,584,208 | Bellows | 05-1926 |
| 4,807,499 | Martinez | 02-1989 |
| 6,092,441 | Jarvis | 07-2000 |

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 8-13, 15 and 16 stand finally rejected under 35 U.S.C. 103(a) as being unpatentable over Jarvis or Martinez in view of either Gadberry or Bellows.

Jarvis or Martinez shows the claimed invention except for the use of a socket portion in both “socket forming and driver receiving parts” that has two different size apertures in each. Either Gadberry or Bellows suggests that a driver can have such a double aperture socket so that the drive receiving aperture is the inner aperture. It would therefore be obvious to one skilled in the art at the time the invention was made to modify Jarvis or Martinez by using a socket portion having two apertures per socket portion because either Gadberry or Bellows suggests the use of such a double aperture socket in a single tool.

(11) *Response to Argument*

Appellant argues that claims 8-10, 13, 15 and 16 all stand together and refers to claim 8 in page 5 of the brief. Appellant argues that none of the references shows the claimed structure of claim 8 which calls for a left and right external drive member means-receiving part, i.e. outer sockets of different size, to engage different size workpieces, these means-receiving parts are joined by a ball joint type of connection and each means-receiving part also has an inner socket that is different in size from the outer sockets and this inner socket can receive a drive member. On page 6, of the brief, appellant states that “the claims recite bore sizes, shapes and part locations which are not found in any of the applied patents”, however there are no such limitations in claim 8 which is the claim appellant is arguing.

With respect to the first primary reference to Jarvis, appellant argues that the device is “very complex and unclearly disclosed”, however this is not a valid point as the patent shows a standard ball joint (1) with sockets (3 and 5) on either end to provide for a driving end and a driven end, thus it is the same as that of claim 8, except for the presence of the inner aperture in both sockets. The description in Jarvis is therefore

Art Unit: 3723

perfectly clear as to what is disclosed and is no more "complex" than appellant's claimed device. Appellant then argues that the secondary references to Gadberry and Bellows are so remote from the subject matter of Jarvis that "there is no suggestion or motivation either in the references themselves or in the knowledge generally available to one skilled in the art" to modify Jarvis. This is a point not supported by the arguments. Clearly the ball joint device of Jarvis is similar to that claimed in claim 8, with the exception that each socket only has one aperture. Gadberry is also a socket with the new structure of having a double end configuration with the actual drive portion being an inner socket that can receive a standard type of drive, i.e. the bar 1. What Gadberry clearly suggests is that if one skilled in the art wished to take advantage of having a tool that is capable of driving differently sized workpieces, the socket can have multiple apertures in one socket, e.g. outer socket (14) and inner socket (13) of Gadberry. Thus one skilled in the art desiring to have this combination function and having knowledge that double opening sockets are well known would find it obvious to modify Jarvis in view of the suggestion provided in Gadberry.

Bellows is also a similar wrench to that of Gadberry but differs only in it being double ended, i.e. sockets on both ends, thus increasing the advantage that even more sizes of workpieces can be engaged. Each of the sockets of Bellows has two openings, an outer one of one size and an inner one of a smaller size. Thus one skilled in the art of wrenches would find it obvious to make the single opening sockets of Jarvis with an additional inner opening to engage any well known device or workpiece.

Martinez is a ball joint wrench similar to that of Jarvis and the arguments above would also apply with respect to this reference.

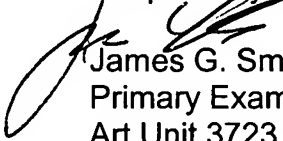
Art Unit: 3723

Appellant also asserts that the limitation of claim 11 regarding the sockets second ends being "substantially the same size and construction" is not shown by either Jarvis or Martinez, however clearly the sockets 3 and 5 of Jarvis and the sockets 2 and 21 of Martinez, when viewed in figure 1 in both references, have second ends (the ends that are joined to the ball joint structure) that are "substantially the same size and construction", thus appellant is in error on this point.


Claim 12 refers to the size and shape of the inner apertures of both sockets being the same so that the same driver can be used in either socket, however clearly the secondary references suggest that the size of the inner aperture in the socket can be made to fit any well known driver thus to make them the same or different size is within the scope of either Gadberry or Bellows.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


James G. Smith
Primary Examiner
Art Unit 3723

jgs
May 11, 2004

Conferees
Alan N. Shoap ^{as}
Joseph H. Hail, III 

Russell E. Hattis
1640 Jasmine Court
Highland Park, IL 60035